

AMENDED IN SENATE APRIL 25, 2012

**SENATE BILL**

**No. 1264**

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**Introduced by Senator Vargas**

February 23, 2012

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An act to amend Sections 11165.7, ~~11166~~, ~~11166.01~~, and 11166.5 of the Penal Code, and to amend Section 355 of the Welfare and Institutions Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1264, as amended, Vargas. Child abuse reporting: mandated reporters.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure to report an incident is a crime punishable by imprisonment in a county jail for a period of up to 6 months, a fine of \$1,000, or by both. ~~Except as provided, any supervisor or administrator who impedes or inhibits an individual's reporting duties shall be punished by not more than 6 months in a county jail, by a fine of not more than \$1,000, or by both. Any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of reporting requirements, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than \$5,000, or by both.~~

This bill would include in the list of individuals who are mandated reporters any athletic coach, including, but not limited to, an assistant

coach or a graduate assistant involved in coaching at a public or private postsecondary institution. ~~The bill would increase the penalty for failure to report an incident to up to 12 months in a county jail, a fine of \$5,000, or both. The bill would increase the penalty for a supervisor or administrator who impedes or inhibits an individual's reporting duties to not more than 12 months in a county jail, a fine of not more than \$10,000, or both. The bill would also require that any mandated reporter convicted of willfully failing to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of reporting requirements, where that abuse or neglect results in death or great bodily injury, be guilty of a felony, punishable by a minimum of one year and a maximum of 5 years in state prison, by a fine of not more than \$25,000, or by both.~~

By imposing the mandated reporting requirement on a new class of persons, for whom failure to report specified conduct is a crime, ~~and by increasing penalties for an existing crime,~~ this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11165.7 of the Penal Code is amended
- 2 to read:
- 3 11165.7. (a) As used in this article, "mandated reporter" is
- 4 defined as any of the following:
- 5 (1) A teacher.
- 6 (2) An instructional aide.
- 7 (3) A teacher's aide or teacher's assistant employed by any
- 8 public or private school.
- 9 (4) A classified employee of any public school.
- 10 (5) An administrative officer or supervisor of child welfare and
- 11 attendance, or a certificated pupil personnel employee of any public
- 12 or private school.

1 (6) Any athletic coach, including, but not limited to, an assistant  
2 coach or a graduate assistant involved in coaching, at public or  
3 private postsecondary institutions.

4 (7) An administrator of a public or private day camp.

5 (8) An administrator or employee of a public or private youth  
6 center, youth recreation program, or youth organization.

7 (9) An administrator or employee of a public or private  
8 organization whose duties require direct contact and supervision  
9 of children.

10 (10) Any employee of a county office of education or the State  
11 Department of Education, whose duties bring the employee into  
12 contact with children on a regular basis.

13 (11) A licensee, an administrator, or an employee of a licensed  
14 community care or child day care facility.

15 (12) A Head Start program teacher.

16 (13) A licensing worker or licensing evaluator employed by a  
17 licensing agency as defined in Section 11165.11.

18 (14) A public assistance worker.

19 (15) An employee of a child care institution, including, but not  
20 limited to, foster parents, group home personnel, and personnel of  
21 residential care facilities.

22 (16) A social worker, probation officer, or parole officer.

23 (17) An employee of a school district police or security  
24 department.

25 (18) Any person who is an administrator or presenter of, or a  
26 counselor in, a child abuse prevention program in any public or  
27 private school.

28 (19) A district attorney investigator, inspector, or local child  
29 support agency caseworker unless the investigator, inspector, or  
30 caseworker is working with an attorney appointed pursuant to  
31 Section 317 of the Welfare and Institutions Code to represent a  
32 minor.

33 (20) A peace officer, as defined in Chapter 4.5 (commencing  
34 with Section 830) of Title 3 of Part 2, who is not otherwise  
35 described in this section.

36 (21) A firefighter, except for volunteer firefighters.

37 (22) A physician and surgeon, psychiatrist, psychologist, dentist,  
38 resident, intern, podiatrist, chiropractor, licensed nurse, dental  
39 hygienist, optometrist, marriage and family therapist, clinical social  
40 worker, professional clinical counselor, or any other person who

1 is currently licensed under Division 2 (commencing with Section  
2 500) of the Business and Professions Code.

3 (23) Any emergency medical technician I or II, paramedic, or  
4 other person certified pursuant to Division 2.5 (commencing with  
5 Section 1797) of the Health and Safety Code.

6 (24) A psychological assistant registered pursuant to Section  
7 2913 of the Business and Professions Code.

8 (25) A marriage and family therapist trainee, as defined in  
9 subdivision (c) of Section 4980.03 of the Business and Professions  
10 Code.

11 (26) An unlicensed marriage and family therapist intern  
12 registered under Section 4980.44 of the Business and Professions  
13 Code.

14 (27) A state or county public health employee who treats a minor  
15 for venereal disease or any other condition.

16 (28) A coroner.

17 (29) A medical examiner, or any other person who performs  
18 autopsies.

19 (30) A commercial film and photographic print processor, as  
20 specified in subdivision (e) of Section 11166. As used in this  
21 article, “commercial film and photographic print processor” means  
22 any person who develops exposed photographic film into negatives,  
23 slides, or prints, or who makes prints from negatives or slides, for  
24 compensation. The term includes any employee of such a person;  
25 it does not include a person who develops film or makes prints for  
26 a public agency.

27 (31) A child visitation monitor. As used in this article, “child  
28 visitation monitor” means any person who, for financial  
29 compensation, acts as monitor of a visit between a child and any  
30 other person when the monitoring of that visit has been ordered  
31 by a court of law.

32 (32) An animal control officer or humane society officer. For  
33 the purposes of this article, the following terms have the following  
34 meanings:

35 (A) “Animal control officer” means any person employed by a  
36 city, county, or city and county for the purpose of enforcing animal  
37 control laws or regulations.

38 (B) “Humane society officer” means any person appointed or  
39 employed by a public or private entity as a humane officer who is

1 qualified pursuant to Section 14502 or 14503 of the Corporations  
2 Code.

3 (33) A clergy member, as specified in subdivision (d) of Section  
4 11166. As used in this article, “clergy member” means a priest,  
5 minister, rabbi, religious practitioner, or similar functionary of a  
6 church, temple, or recognized denomination or organization.

7 (34) Any custodian of records of a clergy member, as specified  
8 in this section and subdivision (d) of Section 11166.

9 (35) Any employee of any police department, county sheriff’s  
10 department, county probation department, or county welfare  
11 department.

12 (36) An employee or volunteer of a Court Appointed Special  
13 Advocate program, as defined in Rule 5.655 of the California Rules  
14 of Court.

15 (37) A custodial officer as defined in Section 831.5.

16 (38) Any person providing services to a minor child under  
17 Section 12300 or 12300.1 of the Welfare and Institutions Code.

18 (39) An alcohol and drug counselor. As used in this article, an  
19 “alcohol and drug counselor” is a person providing counseling,  
20 therapy, or other clinical services for a state licensed or certified  
21 drug, alcohol, or drug and alcohol treatment program. However,  
22 alcohol or drug abuse, or both alcohol and drug abuse, is not in  
23 and of itself a sufficient basis for reporting child abuse or neglect.

24 (40) A clinical counselor trainee, as defined in subdivision (g)  
25 of Section 4999.12 of the Business and Professions Code.

26 (41) A clinical counselor intern registered under Section 4999.42  
27 of the Business and Professions Code.

28 (b) Except as provided in paragraph (36) of subdivision (a),  
29 volunteers of public or private organizations whose duties require  
30 direct contact with and supervision of children are not mandated  
31 reporters but are encouraged to obtain training in the identification  
32 and reporting of child abuse and neglect and are further encouraged  
33 to report known or suspected instances of child abuse or neglect  
34 to an agency specified in Section 11165.9.

35 (c) Employers are strongly encouraged to provide their  
36 employees who are mandated reporters with training in the duties  
37 imposed by this article. This training shall include training in child  
38 abuse and neglect identification and training in child abuse and  
39 neglect reporting. Whether or not employers provide their  
40 employees with training in child abuse and neglect identification

1 and reporting, the employers shall provide their employees who  
2 are mandated reporters with the statement required pursuant to  
3 subdivision (a) of Section 11166.5.

4 (d) School districts that do not train their employees specified  
5 in subdivision (a) in the duties of mandated reporters under the  
6 child abuse reporting laws shall report to the State Department of  
7 Education the reasons why this training is not provided.

8 (e) Unless otherwise specifically provided, the absence of  
9 training shall not excuse a mandated reporter from the duties  
10 imposed by this article.

11 (f) Public and private organizations are encouraged to provide  
12 their volunteers whose duties require direct contact with and  
13 supervision of children with training in the identification and  
14 reporting of child abuse and neglect.

15 ~~SEC. 2. Section 11166 of the Penal Code is amended to read:~~

16 ~~11166. (a) Except as provided in subdivision (d), and in~~  
17 ~~Section 11166.05, a mandated reporter shall make a report to an~~  
18 ~~agency specified in Section 11165.9 whenever the mandated~~  
19 ~~reporter, in his or her professional capacity or within the scope of~~  
20 ~~his or her employment, has knowledge of or observes a child whom~~  
21 ~~the mandated reporter knows or reasonably suspects has been the~~  
22 ~~victim of child abuse or neglect. The mandated reporter shall make~~  
23 ~~an initial report to the agency immediately or as soon as is~~  
24 ~~practicably possible by telephone and the mandated reporter shall~~  
25 ~~prepare and send, fax, or electronically transmit a written followup~~  
26 ~~report thereof within 36 hours of receiving the information~~  
27 ~~concerning the incident. The mandated reporter may include with~~  
28 ~~the report any nonprivileged documentary evidence the mandated~~  
29 ~~reporter possesses relating to the incident.~~

30 ~~(1) For purposes of this article, “reasonable suspicion” means~~  
31 ~~that it is objectively reasonable for a person to entertain a suspicion,~~  
32 ~~based upon facts that could cause a reasonable person in a like~~  
33 ~~position, drawing, when appropriate, on his or her training and~~  
34 ~~experience, to suspect child abuse or neglect. “Reasonable~~  
35 ~~suspicion” does not require certainty that child abuse or neglect~~  
36 ~~has occurred nor does it require a specific medical indication of~~  
37 ~~child abuse or neglect; any “reasonable suspicion” is sufficient.~~  
38 ~~For the purpose of this article, the pregnancy of a minor does not,~~  
39 ~~in and of itself, constitute a basis for a reasonable suspicion of~~  
40 ~~sexual abuse.~~

1     ~~(2) The agency shall be notified and a report shall be prepared~~  
2     ~~and sent, faxed, or electronically transmitted even if the child has~~  
3     ~~expired, regardless of whether or not the possible abuse was a~~  
4     ~~factor contributing to the death, and even if suspected child abuse~~  
5     ~~was discovered during an autopsy.~~

6     ~~(3) Any report made by a mandated reporter pursuant to this~~  
7     ~~section shall be known as a mandated report.~~

8     ~~(b) If after reasonable efforts a mandated reporter is unable to~~  
9     ~~submit an initial report by telephone, he or she shall immediately~~  
10    ~~or as soon as is practicably possible, by fax or electronic~~  
11    ~~transmission, make a one-time automated written report on the~~  
12    ~~form prescribed by the Department of Justice, and shall also be~~  
13    ~~available to respond to a telephone followup call by the agency~~  
14    ~~with which he or she filed the report. A mandated reporter who~~  
15    ~~files a one-time automated written report because he or she was~~  
16    ~~unable to submit an initial report by telephone is not required to~~  
17    ~~submit a written followup report.~~

18    ~~(1) The one-time automated written report form prescribed by~~  
19    ~~the Department of Justice shall be clearly identifiable so that it is~~  
20    ~~not mistaken for a standard written followup report. In addition,~~  
21    ~~the automated one-time report shall contain a section that allows~~  
22    ~~the mandated reporter to state the reason the initial telephone call~~  
23    ~~was not able to be completed. The reason for the submission of~~  
24    ~~the one-time automated written report in lieu of the procedure~~  
25    ~~prescribed in subdivision (a) shall be captured in the Child Welfare~~  
26    ~~Services/Case Management System (CWS/CMS). The department~~  
27    ~~shall work with stakeholders to modify reporting forms and the~~  
28    ~~CWS/CMS as is necessary to accommodate the changes enacted~~  
29    ~~by these provisions.~~

30    ~~(2) This subdivision shall not become operative until the~~  
31    ~~CWS/CMS is updated to capture the information prescribed in this~~  
32    ~~subdivision.~~

33    ~~(3) This subdivision shall become inoperative three years after~~  
34    ~~this subdivision becomes operative or on January 1, 2009,~~  
35    ~~whichever occurs first.~~

36    ~~(4) On the inoperative date of these provisions, a report shall~~  
37    ~~be submitted to the counties and the Legislature by the Department~~  
38    ~~of Social Services that reflects the data collected from automated~~  
39    ~~one-time reports indicating the reasons stated as to why the~~

1 automated one-time report was filed in lieu of the initial telephone  
2 report.

3 ~~(5) Nothing in this section shall supersede the requirement that~~  
4 ~~a mandated reporter first attempt to make a report via telephone;~~  
5 ~~or that agencies specified in Section 11165.9 accept reports from~~  
6 ~~mandated reporters and other persons as required.~~

7 ~~(c) Notwithstanding Section 11162, any mandated reporter who~~  
8 ~~fails to report an incident of known or reasonably suspected child~~  
9 ~~abuse or neglect as required by this section is guilty of a~~  
10 ~~misdemeanor punishable by up to 12 months confinement in a~~  
11 ~~county jail or by a fine of five thousand dollars (\$5,000), or by~~  
12 ~~both that imprisonment and fine. If a mandated reporter~~  
13 ~~intentionally conceals his or her failure to report an incident known~~  
14 ~~by the mandated reporter to be abuse or severe neglect under this~~  
15 ~~section, the failure to report is a continuing offense until an agency~~  
16 ~~specified in Section 11165.9 discovers the offense.~~

17 ~~(d) (1) A clergy member who acquires knowledge or a~~  
18 ~~reasonable suspicion of child abuse or neglect during a penitential~~  
19 ~~communication is not subject to subdivision (a). For the purposes~~  
20 ~~of this subdivision, “penitential communication” means a~~  
21 ~~communication, intended to be in confidence, including, but not~~  
22 ~~limited to, a sacramental confession, made to a clergy member~~  
23 ~~who, in the course of the discipline or practice of his or her church,~~  
24 ~~denomination, or organization, is authorized or accustomed to hear~~  
25 ~~those communications, and under the discipline, tenets, customs,~~  
26 ~~or practices of his or her church, denomination, or organization,~~  
27 ~~has a duty to keep those communications secret.~~

28 ~~(2) Nothing in this subdivision shall be construed to modify or~~  
29 ~~limit a clergy member’s duty to report known or suspected child~~  
30 ~~abuse or neglect when the clergy member is acting in some other~~  
31 ~~capacity that would otherwise make the clergy member a mandated~~  
32 ~~reporter.~~

33 ~~(3) (A) On or before January 1, 2004, a clergy member or any~~  
34 ~~custodian of records for the clergy member may report to an agency~~  
35 ~~specified in Section 11165.9 that the clergy member or any~~  
36 ~~custodian of records for the clergy member, prior to January 1,~~  
37 ~~1997, in his or her professional capacity or within the scope of his~~  
38 ~~or her employment, other than during a penitential communication,~~  
39 ~~acquired knowledge or had a reasonable suspicion that a child had~~  
40 ~~been the victim of sexual abuse that the clergy member or any~~



1 custodian of records for the clergy member did not previously  
2 report the abuse to an agency specified in Section 11165.9. The  
3 provisions of Section 11172 shall apply to all reports made pursuant  
4 to this paragraph.

5 (B) This paragraph shall apply even if the victim of the known  
6 or suspected abuse has reached the age of majority by the time the  
7 required report is made.

8 (C) The local law enforcement agency shall have jurisdiction  
9 to investigate any report of child abuse made pursuant to this  
10 paragraph even if the report is made after the victim has reached  
11 the age of majority.

12 (e) Any commercial film and photographic print processor who  
13 has knowledge of or observes, within the scope of his or her  
14 professional capacity or employment, any film, photograph,  
15 videotape, negative, or slide depicting a child under the age of 16  
16 years engaged in an act of sexual conduct, shall report the instance  
17 of suspected child abuse to the law enforcement agency having  
18 jurisdiction over the case immediately, or as soon as practicably  
19 possible, by telephone and shall prepare and send, fax, or  
20 electronically transmit a written report of it with a copy of the film,  
21 photograph, videotape, negative, or slide attached within 36 hours  
22 of receiving the information concerning the incident. As used in  
23 this subdivision, “sexual conduct” means any of the following:

24 (1) Sexual intercourse, including genital-genital, oral-genital,  
25 anal-genital, or oral-anal, whether between persons of the same or  
26 opposite sex or between humans and animals.

27 (2) Penetration of the vagina or rectum by any object.

28 (3) Masturbation for the purpose of sexual stimulation of the  
29 viewer.

30 (4) Sadomasochistic abuse for the purpose of sexual stimulation  
31 of the viewer.

32 (5) Exhibition of the genitals, pubic, or rectal areas of any person  
33 for the purpose of sexual stimulation of the viewer.

34 (f) Any mandated reporter who knows or reasonably suspects  
35 that the home or institution in which a child resides is unsuitable  
36 for the child because of abuse or neglect of the child shall bring  
37 the condition to the attention of the agency to which, and at the  
38 same time as, he or she makes a report of the abuse or neglect  
39 pursuant to subdivision (a).

~~(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.~~

~~(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.~~

~~(i) (1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.~~

~~(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.~~

~~(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.~~

~~(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to~~

1 Section 11165.13 based on risk to a child which relates solely to  
2 the inability of the parent to provide the child with regular care  
3 due to the parent's substance abuse, which shall be reported only  
4 to the county welfare or probation department. A county probation  
5 or welfare department also shall send, fax, or electronically transmit  
6 a written report thereof within 36 hours of receiving the information  
7 concerning the incident to any agency to which it makes a  
8 telephone report under this subdivision.

9 (k) A law enforcement agency shall immediately, or as soon as  
10 practicably possible, report by telephone, fax, or electronic  
11 transmission to the agency given responsibility for investigation  
12 of cases under Section 300 of the Welfare and Institutions Code  
13 and to the district attorney's office every known or suspected  
14 instance of child abuse or neglect reported to it, except acts or  
15 omissions coming within subdivision (b) of Section 11165.2, which  
16 shall be reported only to the county welfare or probation  
17 department. A law enforcement agency shall report to the county  
18 welfare or probation department every known or suspected instance  
19 of child abuse or neglect reported to it which is alleged to have  
20 occurred as a result of the action of a person responsible for the  
21 child's welfare, or as the result of the failure of a person responsible  
22 for the child's welfare to adequately protect the minor from abuse  
23 when the person responsible for the child's welfare knew or  
24 reasonably should have known that the minor was in danger of  
25 abuse. A law enforcement agency also shall send, fax, or  
26 electronically transmit a written report thereof within 36 hours of  
27 receiving the information concerning the incident to any agency  
28 to which it makes a telephone report under this subdivision.

29 SEC. 3. Section 11166.01 of the Penal Code is amended to  
30 read:

31 11166.01.—(a) Except as provided in subdivision (b) and  
32 notwithstanding Section 11162, any supervisor or administrator  
33 who violates paragraph (1) of subdivision (i) of Section 11166  
34 shall be punished by not more than 12 months in a county jail, by  
35 a fine of not more than ten thousand dollars (\$10,000), or by both  
36 that fine and imprisonment.

37 (b) Notwithstanding Section 11162 or subdivision (c) of Section  
38 11166, any mandated reporter who willfully fails to report abuse  
39 or neglect, or any person who impedes or inhibits a report of abuse  
40 or neglect, in violation of this article, where that abuse or neglect

1 ~~results in death or great bodily injury, shall be, notwithstanding~~  
2 ~~subdivision (h) of Section 1170, guilty of a felony punishable by~~  
3 ~~not less than one year and not more than five years in state prison,~~  
4 ~~by a fine of not more than twenty-five thousand dollars (\$25,000),~~  
5 ~~or by both that fine and imprisonment.~~

6 ~~SEC. 4.~~

7 *SEC. 2.* Section 11166.5 of the Penal Code is amended to read:

8 11166.5. (a) (1) On and after January 1, 1985, any mandated  
9 reporter as specified in Section 11165.7, with the exception of  
10 child visitation monitors, prior to commencing his or her  
11 employment, and as a prerequisite to that employment, shall sign  
12 a statement on a form provided to him or her by his or her employer  
13 to the effect that he or she has knowledge of the provisions of  
14 Section 11166 and will comply with those provisions. The  
15 statement shall inform the employee that he or she is a mandated  
16 reporter and inform the employee of his or her reporting obligations  
17 under Section 11166 and of his or her confidentiality rights under  
18 subdivision (d) of Section 11167. The employer shall provide a  
19 copy of Sections 11165.7, 11166, and 11167 to the employee.

20 On and after January 1, 1993, any person who acts as a child  
21 visitation monitor, as defined in paragraph (31) of subdivision (a)  
22 of Section 11165.7, prior to engaging in monitoring the first visit  
23 in a case, shall sign a statement on a form provided to him or her  
24 by the court which ordered the presence of that third person during  
25 the visit, to the effect that he or she has knowledge of the provisions  
26 of Section 11166 and will comply with those provisions.

27 ~~The~~

28 (2) *The* signed statements shall be retained by the employer or  
29 the court, as the case may be. The cost of printing, distribution,  
30 and filing of these statements shall be borne by the employer or  
31 the court.

32 ~~This~~

33 (3) *This* subdivision is not applicable to persons employed by  
34 public or private youth centers, youth recreation programs, and  
35 youth organizations as members of the support staff or maintenance  
36 staff and who do not work with, observe, or have knowledge of  
37 children as part of their official duties.

38 (b) On and after January 1, 1986, when a person is issued a state  
39 license or certificate to engage in a profession or occupation, the  
40 members of which are required to make a report pursuant to Section

1 11166, the state agency issuing the license or certificate shall send  
2 a statement substantially similar to the one contained in subdivision  
3 (a) to the person at the same time as it transmits the document  
4 indicating licensure or certification to the person. In addition to  
5 the requirements contained in subdivision (a), the statement also  
6 shall indicate that failure to comply with the requirements of  
7 Section 11166 is a misdemeanor, punishable by up to ~~12~~ *six* months  
8 in a county jail, by a fine of ~~five thousand dollars (\$5,000)~~ *one*  
9 *thousand dollars (\$1,000)*, or by both that imprisonment and fine.

10 (c) As an alternative to the procedure required by subdivision  
11 (b), a state agency may cause the required statement to be printed  
12 on all application forms for a license or certificate printed on or  
13 after January 1, 1986.

14 (d) On and after January 1, 1993, any child visitation monitor,  
15 as defined in paragraph (31) of subdivision (a) of Section 11165.7,  
16 who desires to act in that capacity shall have received training in  
17 the duties imposed by this article, including training in child abuse  
18 identification and child abuse reporting. The person, prior to  
19 engaging in monitoring the first visit in a case, shall sign a  
20 statement on a form provided to him or her by the court which  
21 ordered the presence of that third person during the visit, to the  
22 effect that he or she has received this training. This statement may  
23 be included in the statement required by subdivision (a) or it may  
24 be a separate statement. This statement shall be filed, along with  
25 the statement required by subdivision (a), in the court file of the  
26 case for which the visitation monitoring is being provided.

27 (e) Any person providing services to a minor child, as described  
28 in paragraph (38) of subdivision (a) of Section 11165.7, shall not  
29 be required to make a report pursuant to Section 11166 unless that  
30 person has received training, or instructional materials in the  
31 appropriate language, on the duties imposed by this article,  
32 including identifying and reporting child abuse and neglect.

33 ~~SEC. 5.~~

34 *SEC. 3.* Section 355 of the Welfare and Institutions Code is  
35 amended to read:

36 355. (a) At the jurisdictional hearing, the court shall first  
37 consider only the question whether the minor is a person described  
38 by Section 300. Any legally admissible evidence that is relevant  
39 to the circumstances or acts that are alleged to bring the minor  
40 within the jurisdiction of the juvenile court is admissible and may

1 be received in evidence. Proof by a preponderance of evidence  
2 must be adduced to support a finding that the minor is a person  
3 described by Section 300. Objections that could have been made  
4 to evidence introduced shall be deemed to have been made by any  
5 parent or guardian who is present at the hearing and unrepresented  
6 by counsel, unless the court finds that the parent or guardian has  
7 made a knowing and intelligent waiver of the right to counsel.  
8 Objections that could have been made to evidence introduced shall  
9 be deemed to have been made by any unrepresented child.

10 (b) A social study prepared by the petitioning agency, and  
11 hearsay evidence contained in it, is admissible and constitutes  
12 competent evidence upon which a finding of jurisdiction pursuant  
13 to Section 300 may be based, to the extent allowed by subdivisions  
14 (c) and (d).

15 (1) For the purposes of this section, “social study” means any  
16 written report furnished to the juvenile court and to all parties or  
17 their counsel by the county probation or welfare department in any  
18 matter involving the custody, status, or welfare of a minor in a  
19 dependency proceeding pursuant to Article 6 (commencing with  
20 Section 300) to Article 12 (commencing with Section 385),  
21 inclusive.

22 (2) The preparer of the social study shall be made available for  
23 cross-examination upon a timely request by any party. The court  
24 may deem the preparer available for cross-examination if it  
25 determines that the preparer is on telephone standby and can be  
26 present in court within a reasonable time of the request.

27 (3) The court may grant a reasonable continuance not to exceed  
28 10 days upon request by any party if the social study is not  
29 provided to the parties or their counsel within a reasonable time  
30 before the hearing.

31 (c) (1) If any party to the jurisdictional hearing raises a timely  
32 objection to the admission of specific hearsay evidence contained  
33 in a social study, the specific hearsay evidence shall not be  
34 sufficient by itself to support a jurisdictional finding or any ultimate  
35 fact upon which a jurisdictional finding is based, unless the  
36 petitioner establishes one or more of the following exceptions:

37 (A) The hearsay evidence would be admissible in any civil or  
38 criminal proceeding under any statutory or decisional exception  
39 to the prohibition against hearsay.

1 (B) The hearsay declarant is a minor under the age of 12 years  
2 *of age* who is the subject of the jurisdictional hearing. However,  
3 the hearsay statement of a minor under the age of 12 years *of age*  
4 shall not be admissible if the objecting party establishes that the  
5 statement is unreliable because it was the product of fraud, deceit,  
6 or undue influence.

7 (C) The hearsay declarant is a peace officer as defined by  
8 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2  
9 of the Penal Code, a health practitioner described in paragraphs  
10 (22) to (29), inclusive, of subdivision (a) of Section 11165.7 of  
11 the Penal Code, a social worker licensed pursuant to Chapter 14  
12 (commencing with Section 4991) of Division 2 of the Business  
13 and Professions Code, or a teacher who holds a credential pursuant  
14 to Chapter 2 (commencing with Section 44200) of Part 25 of  
15 Division 3 of Title 2 of the Education Code. For the purpose of  
16 this subdivision, evidence in a declaration is admissible only to  
17 the extent that it would otherwise be admissible under this section  
18 or if the declarant were present and testifying in court.

19 (D) The hearsay declarant is available for cross-examination.  
20 For purposes of this section, the court may deem a witness available  
21 for cross-examination if it determines that the witness is on  
22 telephone standby and can be present in court within a reasonable  
23 time of a request to examine the witness.

24 (2) For purposes of this subdivision, an objection is timely if it  
25 identifies with reasonable specificity the disputed hearsay evidence  
26 and it gives the petitioner a reasonable period of time to meet the  
27 objection prior to a contested hearing.

28 (d) This section shall not be construed to limit the right of any  
29 party to the jurisdictional hearing to subpoena a witness whose  
30 statement is contained in the social study or to introduce admissible  
31 evidence relevant to the weight of the hearsay evidence or the  
32 credibility of the hearsay declarant.

33 ~~SEC. 6.~~

34 *SEC. 4.* No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the penalty  
39 for a crime or infraction, within the meaning of Section 17556 of  
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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